

EXHIBIT C-6

IN THE COURT OF COMMON PLEAS OF LAWRENCE COUNTY, PENNSYLVANIA
CIVIL DIVISION

In re: Canvass of Mail-In Ballots for the
2020 General Primary

No. 70050-2020 *Chu*

OBJECTION

Filed on behalf of Petitioner Pennsylvania
Democratic State Committee

Counsel of Record:

Jason A. Medure

Pa. ID No. 90976

Medure Bonner Bellissimo LLC

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EXHIBIT

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AND NOW, comes Petitioner, the Pennsylvania Democratic State Committee, by and through its counsel, Jason A. Medure and Joseph Bellisimo, and file this Objection as follows:

1. Petitioner Pennsylvania Democratic State Committee ("Petitioner") is a duly-organized unincorporated association with a business address of 229 State Street, Harrisburg, PA 17101.
2. Petitioner is a political party recognized under the Pennsylvania Election Code and other laws, and represents the interests of Democratic candidates and voters.
3. This Court has jurisdiction to hear petitions concerning election matters under the Pennsylvania Election Code. 25 P.S. § 3046.
4. Venue is proper in this Court because the events hereinunder complained of occurred in Lawrence County.
5. On information and belief, the Lawrence County Board of Elections ("Board"), in the canvass of mail-in and/or absentee ballots which were marked and returned by voters, has segregated a number of ballots which were returned to the Board without an inner envelope marked "Official Absentee Ballot" or "Official Mail-In Ballot," as the case may be (the "Privacy Envelope" or "Secrecy Envelope").

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6. On information and belief, the members and/or employees of the Board have declared their intention to discard and not count any such ballot which is returned to the Board without a Privacy Envelope.

7. Petitioner hereby objects to the proposal not to count these ballots returned without a Privacy Envelope.

8. The Board's failure to canvass and count these ballots which lack the Privacy Envelope is in violation of the provisions of the Pennsylvania Election Code and the rights of Electors to vote and have their ballots counted under the Pennsylvania Constitution.

9. The Board's failure to canvass and count these ballots which lack the Privacy Envelope is in violation of the laws and constitution of the United States, including the Equal Protection and Due Process Clauses, and in light of candidates for federal office on the ballot, the Voting Rights Act and other applicable statutes.

10. While voters are instructed to use a privacy envelope in submitting the ballot, there is nothing in the Election Code allowing or authorizing a County Board of Election to discard a ballot cast without a privacy envelope. *See* 25 P.S. § 3146.8.

11. The Commonwealth Court has addressed the issue of voter intent in a case where a form of ballot was argued to override the will of the voter and stated that the intent of the voter should control in the absence of a clear indication of fraud. *See In re Pennsylvania Gen. Elec. for Snyder County Comm'r*, 841 A.2d 593, 597 (Pa. Cmwlth. 2003).

12. In interpreting the write-in provisions of the Election Code, the applicable laws "must be liberally construed in favor of a voter's right to vote." *Shambach v. Bickhart*, 845 A.2d 793, 802 (Pa. 2004).

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13. The clear legislative intent to allow these votes to be counted can be seen by comparison to the statute applicable to provisional ballots, which expressly includes language authorizing/requiring the Board to not count *provisional* ballots that are not in a privacy envelope. See 25 P.S. § 3050(a.4)(5)(ii)(C).

14. No such language is located in the statute applicable to the mail-in or absentee ballots. See 25 P.S. § 3146.8.

15. The Board's failure to canvass and count these ballots which lack the Privacy Envelope is contrary to the directive of the Pennsylvania Department of State sent to the county election directors on May 28, 2020. A copy of this correspondence is attached as Exhibit 1.

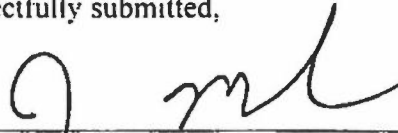
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WHEREFORE, Petitioner hereby requests that the Court order an issue requiring the Lawrence County Board of Election to canvass and count all ballots (except provisional ballots) which do not contain a Privacy Envelope.

Respectfully submitted,



Jason A. Medure

Pa. ID No. 90976

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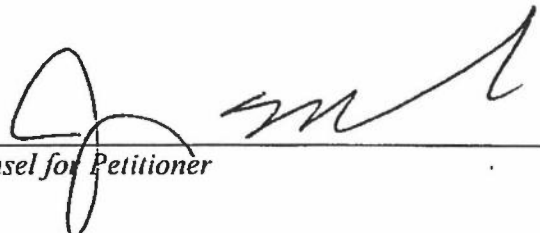
CERTIFICATION

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

I further certify that on this 2nd day of June, 2020, I made the following efforts to notify Respondent(s) and/or Respondent(s)' attorneys of Petitioner's Objection:

Hand delivery to County Solicitors' Office.

Although I was unable to provide notice of this Objection to Respondent(s) or their attorneys, this Court should nonetheless grant Petitioner's Objection. Pursuant to Rule 1531(d) of the Pennsylvania Rules of Civil Procedure, an injunction may be granted without notice to a Respondent for a period of up to five days.



Counsel for Petitioner

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Exhibit 1

From: Marks, Jonathan <jmarks@pa.gov>
Sent: Thursday, May 28, 2020 7:44 PM
To: Marks, Jonathan <jmarks@pa.gov>
Subject: Important DOS Email re: Absentee/Mail-in Ballot Canvass
Importance: High

To all county election officials.

I hope you are all safe and well.

The department has received some questions from county officials in recent days regarding the proper disposition of absentee or mail-in ballots cast by voters who did not enclose their voted ballots in the official election ballot envelope ("secrecy" or "inner" envelope).

Though the Election Code requires county boards of elections to set aside absentee or mail-in ballots enclosed in official election ballot envelopes that contain "any text, mark or symbol which reveals the identity of the elector," there is **no statutory requirement, nor is there any statutory authority**, for setting aside an absentee or mail-in ballot solely because the voter forgot to properly insert it into the official election ballot envelope. See 25 P.S. § 3146.8(g)(4)(ii).

To preserve the secrecy of such ballots, the board of elections in its discretion may develop a process by which the members of the pre-canvass or canvass boards insert these ballots into empty official election ballot envelopes or privacy sleeves until such time as they are ready to be tabulated.

Please consult with your solicitor about your plans to deal with such instances should they occur during the pre-canvass or canvass.

Thank you for everything you are doing to administer the 2020 Primary while coping with the unique challenges presented by COVID-19.

Kind regards,

Jonathan M. Marks
Deputy Secretary for Elections & Commissions
Pennsylvania Department of State
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☎ 717.783.2035 📠 717.787.1734
✉ jmarks@pa.gov

JUN - 2 2020 *Re: 168.75*

*COPY WITH ORIGINAL ORDER TO
JUDGE CLARA VIA U.S. Marshal*

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